

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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|---------------------------|---|--------------------------------|
| JOSE NAVARRETE, | : | |
| | : | Civil Action No. 09-3683 (JBS) |
| Plaintiff, | : | |
| | : | |
| v. | : | ORDER |
| | : | |
| UNITED STATES OF AMERICA, | : | |
| et al., | : | |
| | : | |
| Defendants. | : | |

For the reasons expressed in the Opinion filed herewith,

IT IS on this 27th day of January, 2010,

ORDERED that Plaintiff's application to proceed in forma pauperis is hereby granted pursuant to 28 U.S.C. § 1915(a) and (b); and it is further

ORDERED that the Clerk of the Court shall file the Complaint without prepayment of fees or security; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(b), the Clerk shall serve a copy of this Order by regular mail upon Plaintiff and upon the U.S. Attorney for the District of New Jersey and the warden of the Federal Correctional Institution at Fort Dix, New Jersey; and it is further

ORDERED that the First and Fifth Amendment claims may proceed as against the individual who was the Warden of the Federal Correctional Institution at Fort Dix from August 8, 2006, through October 2006; and it is further

ORDERED that all other claims are DISMISSED WITH PREJUDICE; and it is further

ORDERED that the Clerk shall issue summons and the United States Marshal shall serve summons and copies of the Complaint, this Order, and the Opinion accompanying this Order upon that Defendant Warden, with all costs of service advanced by the United States; and it is further

ORDERED that, pursuant to 42 U.S.C. § 1997e(g)(2), upon being served, the Defendant Warden shall file and serve a responsive pleading within the time specified by Fed.R.Civ.P. 12; and it is further

ORDERED that the pending Motion [3] for appointment of counsel is DENIED WITHOUT PREJUDICE as premature and for failing to address the relevant considerations set forth in Tabron v. Grace, 6 F.3d 147 (3d Cir. 1993), cert. denied, 510 U.S. 1196 (1994); and it is further

ORDERED that the Clerk shall send Plaintiff a copy of Appendix H and a form Application for Appointment of Pro Bono Counsel; and it is further

ORDERED that, if at any time Plaintiff seeks to move again for the appointment of pro bono counsel, pursuant to Fed.R.Civ.P. 5(a) and (d), Plaintiff shall (1) serve a copy of the application for Appointment of Pro Bono Counsel by regular mail upon each party at his last known address or, if the party is represented

in this action by an attorney, upon the party's attorney and the attorney's address, and (2) file a Certificate of Service with the Application for Pro Bono Counsel; and it is further

ORDERED that Plaintiff is assessed a filing fee of \$350.00 which shall be deducted from Plaintiff's institutional account pursuant to 28 U.S.C. § 1915(b)(2) in the manner set forth below, regardless of the outcome of the litigation; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(b)(2), until the \$350.00 fee is paid, each month that the amount in Plaintiff's prison account exceeds \$10.00, the agency having custody of Plaintiff shall assess, deduct from his institutional account, and forward to the Clerk payments equal to 20% of the preceding month's income credited to Plaintiff's institutional account, with each payment referencing the civil docket number of this action.

s/ Jerome B. Simandle
Jerome B. Simandle
United States District Judge